

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION**

CORINA ADAMS,

Plaintiff,

No. 1:20-cv-00816-CL

v.

ORDER

WALMART, INC.,

Defendant.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mark Clarke on March 29, 2021. ECF No. 33. Judge Clarke recommends that Defendant's Motion to Dismiss the First Amended Complaint, ECF No. 17, be denied.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and

recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, Defendant has filed Objections, ECF No. 35, and Plaintiff has filed a Response, ECF No. 36. Defendant has also filed a Reply in support of its Objections, ECF No. 37. Rule 72(b) permits objections to a magistrate judge’s recommendation and responses to those objections but does not provide for a reply brief. Fed. R. Civ. P. 72(b)(2). Nevertheless, the Court has considered Defendant’s Reply in reviewing the F&R. In the future, Defendant should seek leave of the Court to file a reply brief in support of objections to a magistrate judge’s recommendation.

The Court has reviewed the F&R, the record, and Defendant's Objections and finds no error. The Court ADOPTS Judge Clarke's F&R, ECF No. 33. Defendant's Motion to Dismiss, ECF No. 17, is DENIED.

It is so ORDERED and DATED this 2nd day of September 2021.

/s/Ann Aiken

ANN AIKEN

United States District Judge